




UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

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OFFICE OF
SOLID WASTE AND
EMERGENCY RESPONSE

MEMORANDUM

SUBJECT: Early Guidance on the Reconsideration of CERCLA/EPCRA Administrative Reporting Exemption for Air Releases of Hazardous Substances from Animal Waste at Farms

FROM: Mathy Stanislaus
Assistant Administrator 

TO: Workgroup for the Reconsideration of CERCLA/EPCRA Administrative Reporting Exemption for Air Releases of Hazardous Substances from Animal Waste at Farms

Under EPA's Action Development Process, early guidance from senior managers communicates expectations, identifies policy and procedural issues requiring examination, and highlights policy issues of significant concern for the workgroup. This memorandum provides early guidance to the workgroup for the reconsideration of the CERCLA/EPCRA Administrative Reporting Exemption for Air Releases of Hazardous Substances from Animal Waste at Farms (2008 Final Rule) that resulted from discussions at the Early Guidance meeting on Thursday December 16, 2010, with senior management. A copy of the briefing material for the Early Guidance meeting is attached.

Expectations and Schedule

It is my expectation that the workgroup will make every effort to meet the schedule that has been established for this rulemaking. Currently, the Options Selection meeting is scheduled for [REDACTED], with the Final Agency Review meeting scheduled to take place in [REDACTED]. It is expected that the proposed rule will be published in the [REDACTED].

Action Items and Issues Requiring Workgroup Examination

During discussion at the Early Guidance meeting, in addition to the points presented in the Early Guidance briefing materials for the workgroup to consider, senior management identified four sets of general action items for the workgroup to examine and develop.

1. Enhance the record to support CERCLA and EPCRA reporting options.

The workgroup will work closely with the Office of General Counsel (OGC) to develop a questionnaire to survey the Regions to explore the nature of national and state/local responses to releases on farms under CERCLA and EPCRA authority. OGC will work with the workgroup to develop questions that can be used to help provide a supporting record for the rationale for the rulemaking.

During this discussion, [REDACTED]

[REDACTED] Additionally, there was some concern that the workgroup should carefully examine how useful the information that is collected will be and how we plan on using the data once collected. Additionally, some participants thought that the Office of Water, the U.S. Department of Agriculture (USDA), and others may have useful data that could obviate or change the focus of a survey.

Ultimately, direction was given to the workgroup to identify all potential data sources and consider their usefulness in supporting the rulemaking record before a survey of the regions is conducted. In addition and as a separate effort, [REDACTED]

Also mentioned in this discussion was the timing of the data expected from the National Air Monitoring Emissions Study (NAMES). [REDACTED]

2. Use data available now to assess economic impacts of rule.

The workgroup was directed to use available information and data to assess the potential [REDACTED] screening analysis that assesses the need for the creation of a Small Business Advocacy Review [REDACTED]

[REDACTED]

3. Develop a communication plan and strategy early.

Senior management discussed communication priorities associated with this rulemaking.

[REDACTED]

reach out to the National Association of SARA Title III Program Officials (NASTTPO), as this organization represents State and local governments that will be impacted by this

[REDACTED]

The workgroup was asked to create a communication strategy early for this effort.

[REDACTED]

[REDACTED]

In addition, the workgroup should consider the following:

- [REDACTED]
- [REDACTED]
- [REDACTED]
- The information and/or concerns that were articulated by the various parties during the mediation process in the prior rule challenge.
- The previous effort in developing the rule for any “lessons learned” that should be considered.

Since this memo serves as early guidance, I am asking each workgroup member to brief his or her senior management on the direction that has been provided for this action. Please contact

[REDACTED]

Attachment

Cc: Assistant/Regional Administrator's of workgroup members